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5 **UNITED STATES DISTRICT COURT**
6 **DISTRICT OF NEVADA**

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9 CLAYTON SIMMONS,) 2:10-CV-00011-PMP-LRL
10 Plaintiff,)
11 vs.) **ORDER**
12)
13 CITY OF HENDERSON POLICE)
14 DEPARTMENT,)
15 Defendant.)

16 This action was commenced May 7, 2010 by the filing of Plaintiff Clayton
17 Simmons' Pro Se Complaint against Defendant City of Henderson and Police
18 Department of the City of Henderson (Doc. #3). Now before the Court are the Motion
19 to Dismiss (Doc. #6) filed June 17, 2010 on behalf of Improperly Named City of
20 Henderson Police Department (Doc. #6), Plaintiff's Counter motion to Join Both
21 Parties Together (Doc. #10), Plaintiff's Motion to Amend Plaintiff's Address (Doc.
22 #12), Defendant's Motion to Dismiss for Failure to State a Claim (Doc. #13) and
23 Plaintiff's Motion to Join Both Parties, "City of Henderson" and "Henderson Police
24 Department" as Defendants to this Suit (Doc. #17).

25 Having read and considered the foregoing, the Court finds that Defendant's
26 Motion to Dismiss Plaintiff's Complaint for Failure to State a Claim (Doc. #13) must

1 be GRANTED. Plaintiff's complaint was not served, no Summons was issued and no
2 personal service has been effected. Additionally, the improperly named "City of
3 Henderson Police Department" is not a legally cognizable entity capable of being sued.
4 Additionally, the events giving rise the claims asserted in Plaintiff's complaint
5 allegedly occurred on January 10 and 11, 2007, which is more than two years prior to
6 the commencement of this action. As a result, Plaintiff's suit is barred by the
7 applicable two-year statute of limitations under N.R.S. 11.190(4).

8 **IT IS THEREFORE ORDERED** that Defendant's Motion to Dismiss (Doc.
9 #13) is **GRANTED**.

10 **IT IS FURTHER ORDERED** that Defendant's Separate Motion to Dismiss
11 (Doc. #6) is **GRANTED**.

12 **IT IS FURTHER ORDERED** that Plaintiff's Motions to Amend (Doc. #10),
13 To Serve Notice (Doc. #11), To Amend Address (Doc. #12) and To Join Parties (Doc.
14 #17) are **DENIED**.

15 DATED: August 6, 2010.



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17 PHILIP M. PRO
18 United States District Judge
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